



IN THE
Supreme Court of the United States

October Term, 1945.

No. 340.

SANTO GRASSO,

Petitioner,

AGAINST

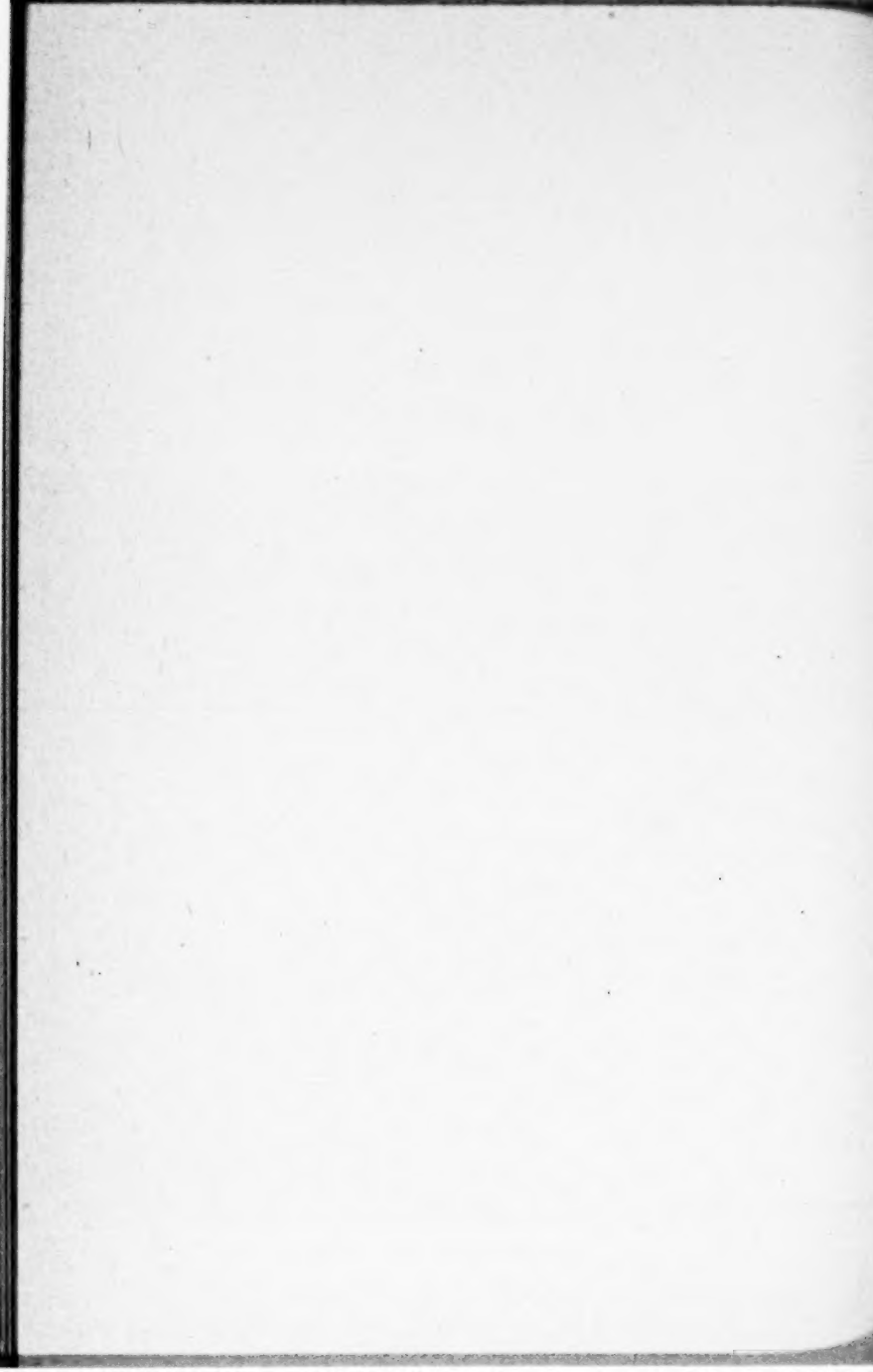
OIVIND LORENTZEN, Director of Shipping and
Curator for the ROYAL NORWEGIAN GOVERN-
MENT, operating as a NORWEGIAN SHIPPING
& TRADE MISSION,

Respondent.

Motion for Leave to File Petition for Reargument Out
of Time and Petition for Rehearing of Santo
Grasso's Petition for a Writ of Certiorari.

JACOB RASSNER,
Proctor for Petitioner.

GEORGE J. ENGLEMAN,
Of Counsel.



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AGAINST

OIVIND LORENTZEN, Director of
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ROYAL NORWEGIAN GOVERNMENT,
operating as a NORWEGIAN SHIP-
PING & TRADE MISSION,
Respondent.

No. 340.

Notice of Motion.

SIRS:

PLEASE TAKE NOTICE that upon all the pleadings and proceedings heretofore had herein and upon the annexed affidavit of Jacob Rassner, duly verified the 23rd day of April, 1946, a motion will be made before the Supreme Court of the United States at Washington, D. C., on the 13th day of May, 1946, at a Term held for motions at the opening of the Court, or as soon thereafter as counsel can be heard, for an order granting leave to file petition for re-argument out of time of petition for re-hearing of Santo Grasso's petition for a writ of certiorari, and for

Notice of Motion.

such other and further relief as to this Court may seem just and proper.

Dated, New York, April 23rd, 1946.

Yours, etc.,

JACOB RASSNER,
Proctor for Petitioner,
Office & P. O. Address,
220 Broadway,
Borough of Manhattan,
City of New York.

GEORGE J. ENGLEMAN,
Of Counsel.

To:

HAIGHT, GRIFFIN, DEMING & GARDNER, ESQs.,
Proctors for Respondent,
80 Broad Street,
New York, N. Y.

Affidavit of Jacob Rassner.

IN THE
SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM 1945.

SANTO GRASSO,
Petitioner,

AGAINST

OIVIND LORENTZEN, Director of Shipping and Curator for the ROYAL NORWEGIAN GOVERNMENT, operating as a NORWEGIAN SHIP- PING & TRADE MISSION, <i>Respondent.</i>	}	No. 340.
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STATE OF NEW YORK, COUNTY OF NEW YORK.	{	ss.:
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JACOB RASSNER, being duly sworn, deposes and says:

That he is counsel for Santo Grasso, the petitioner herein.

Petitioner was injured on the 15th day of May, 1942 as a result of the breaking of a ship's steel cargo strap.

The cargo strap broke, according to all of the uncontradicted evidence in the case, as a result of it being completely rusted through and through.

Affidavit of Jacob Rassner.

The action was tried in Admiralty before Judge Henry W. Goddard on the 8th, 9th, 10th days of February, 1944.

The Trial Court found that the vessel owner was not liable, as the stevedores had failed to inspect the strap from time to time as the work was progressing.

The Trial Court found on the uncontradicted testimony of several eye witnesses, who testified that the cable strap was rusted through and through, at a portion which was concealed from view behind a beam, that several of the strands of the cable were rusted.

On this evidence and the Trial Court's finding, *the ship's cable strap was defective and unseaworthy.*

On the 9th day of April, 1945, the Court of Appeals for the Second Circuit affirmed the judgment of the Court below, holding that the ship was under no duty to inspect its cargo strap after the stevedores commenced working with it.

On the 8th day of October, 1945, this Court denied the petitioner's petition for a writ of certiorari.

On the 22nd day of April, 1946, this Court handed down a decision in the case of *Seas Shipping Company, Inc., Petitioner, v. Joseph Sieracki* holding that a ship-owner owes the same duty to a stevedore to provide gear and equipment free from defects, as it does to a member of the crew.

In view of the *Seas Shipping Company, Inc., v. Sieracki* decision, Grasso is entitled to recover.

Solely on the authority of the *Sieracki decision, supra*, is petitioner moving for a re-argument of his petition for a writ of certiorari, consequently he could not have made this motion at an earlier date, as the decision in the *Sieracki case, supra*, just came down on the 22nd day of April, 1946.

Affidavit of Jacob Rassner.

WHEREFORE, deponent respectfully asks that petitioner be granted leave to file his petition out of time, for a rehearing of his petition for a writ of certiorari, denied on the 8th day of October 1945, and for such other and further relief as to this Court may seem just and proper.

JACOB RASSNER.

Sworn to before me this }
23rd day of April, 1946. }

ANN BERNARD,
Notary Public,
Kings County,

Kings Co. Clk's No. 819 Reg. No. 669-B-7;
N. Y. Co. Clk's No. 1437 Reg. No. 1125-B-7;
Commission expires March 30, 1947.